Rubenstein v. Frey Doc. 67 Att. 11

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE "A MILLION LITTLE PIECES" LITIGATION	No. 06-md-1771 Hon. Richard J. Holwell

AFFIDAVIT OF ALAN RIPKA] IN SUPPORT OF JOINT PETITION FOR ATTORNEYS' FEES AND REIMBURSEMENT OF COSTS FILED BY NAPOLI BERN RIPKA, LLP

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Alan Ripka, being first duly sworn, deposes and says:

1. I am a partner of the firm of Napoli Bern Ripka, LLP. I am submitting this affidavit in support of my firm's application for an award of attorneys' fees in connection with services rendered in the above-entitled action ("The Action") and the reimbursement of expenses incurred by my firm in the course of this litigation.

2. My firm acted as one of plaintiff's counsel in this class action. The tasks undertaken by my firm can be summarized as follows:

My firm researched the issues consulted with the client, spoke with defense counsel in an attempt to settle after authoring. We then served and filed one of the first Summons and Complaint against all the defendants in the litigation as well as appropriate discovery. We reviewed all correspondence and documents concerning the case as well as discussing strategy with co-counsel. Further we attended the court conference in the Southern District and afterward the meeting with defense counsel

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reviewing the court conference. We counseled our client regarding the terms of the settlement and supplied lead counsel with all the necessary information requested.

3. The chart attached hereto as Exhibit A is a detailed summary indicating the amount of time spent by the partners of my firm who were involved in this litigation, and the lodestar calculation based upon my firm's current billing rates for such personnel in the final year of employment by my firm. As reflected therein, my firm expended a total of 66.60 hours on this litigation from the inception of the case to the present, with a total lodestar amount of $ 32,800.00.[1] Time expended in preparing this application for fees and reimbursement of expenses has not been included in this request.

4. The hourly rates for the partners in my firm included in Exhibit "A" are the same as the regular current rates charged for their services in non-contingent matters and/or which have been accepted and approved in other class action matters in this District.

5. The expenses incurred in this Action are reflected on the books and records of my firm. These books and records are prepared from expense vouchers, check records and other source materials and are an accurate record of the expenses incurred in connection with the prosecution of the litigation.

[1] The schedule was prepared from contemporaneous, daily time records regularly prepared and maintained by my firm, which are available for inspection upon request of the Court.

6. With respect to the standing of counsel in this case, attached hereto as Exhibit "B" is a brief biography of my firm and attorneys in my firm who were principally involved in this litigation.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 27 day of September, 2007.

Alan Ripka

SWORN TO BEFORE ME
this 27th day of September 2007.
Betsy Barranco
NOTARY PUBLIC

BETSY BARRANCO
Notary Public, State of New York
No. 01BA6043158
Qualified in Richmond County
Commission Expires June 12, 2010

EXHIBIT "A"

IN RE "*A MILLION LITTLE PIECES*" LITIGATION 06-MD-1771

BILLING

FIRM NAME: Napoli Bern Ripka, LLP

REPORTING PERIOD: January 1, 2006 through September 25, 2007

ATTORNEY NAME	TOTAL HOURS	HOURLY RATE	TOTAL LODESTAR
Alan Ripka	57.90	$500	$28,950.00
Paul Napoli	3.70	$500	$1,850.00
Denise Rubin	5.00	$400	$2,000.00
TOTAL		N/A	$ 32,800.00

EXHIBIT "B"

NAPOLI BERN RIPKA LLP
Attorneys At Law

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ATTORNEYS

PAUL J. NAPOLI

Mr. Napoli, a Senior Partner in the firm, was admitted to practice before the Courts of the State of 1992. He is also admitted to practice in the U.S. District Court for the Southern and Eastern Districts the United States Court of Appeals for the Third Circuit; and holds pro hac vice appointments in varic including Pennsylvania, New Jersey, Oklahoma and Florida. A 1992 graduate of St. John's University Mr. Napoli also holds a B.S. from Fordham University (1989). Mr. Napoli has achieved more than 10C settlements over one million dollars. He is a member of the New York State Bar Association; The Ass Lawyers of America (President's Club Member); New York Trial Lawyers Association (Board of Directc County Bar Association; Million Dollar Advocates Forum; St. John's Loughlin Society (Benefactors' Co Lawyers for Public Justice and the St. John's University School of Law Alumni Association. Mr. Napoli appointed by the Supreme Court of the State of New York as the Liaison Counsel for the Consolidate litigations and for the New York State Rezulin litigations, and is also Co-Liaison Counsel for the Worlc Disaster Site litigations pending in the United States District Court for the Southern District of New Y

Practice Areas:
Pharmaceutical Liability; Mass Torts; Environmental ("Toxic") Torts, Liability; Medical Malpractice Lav Liability; Negligence Law; Securities Law

Articles:
Napoli, Paul J., "Physician Liability In Diet Drug Litigation" NYLJ April 20, 1998

Reported Case:
Cunningham v. American Home Products Corp., 9/21/99 N.Y.L.J. 26, Col. 5

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ATTORNEYS

ALAN S. RIPKA

Mr. Ripka is a Senior Partner with the firm. He is admitted to practice before the Courts of the St
York and the U.S. District Courts for the Southern and Eastern Districts' of New York. He holds vari
vice appointments, including New Jersey, California and Florida. He began his legal career as a crim
at the District Attorney's office for King's County. In 1992, he began in civil litigation, where he con
Mr. Ripka currently practices in the areas of Medical Malpractice, Mass Tort, Products Liability, Cons
and General Negligence. He has tried countless cases to verdict and has recovered numerous awar
million dollars. He is a member of the Board of Directors for the New York State Trial Lawyer's Assc

Mr. Ripka regularly appears as a legal consultant on a variety of television programs throughout
including, CNN Headline News, Court TV's Live with Nancy Grace and Channel 7's Eyewitness News

Practice Areas:
Medical Malpractice, Mass Tort, Products Liability, Consumer Fraud and General Negligence.

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ATTORNEYS

DENISE A. RUBIN

Ms. Rubin is an Associate Attorney with the firm. She graduated from Fordham University School o
and from New York University (B.S., 1983). Ms. Rubin is admitted to practice before the Courts of th
York (1991), and to the U.S. District Court for the Southern and Eastern Districts of New York (1991
Courts of Appeals for the Second Circuit (1991) and the Third Circuit (2003); and to the U.S. Supren
(1997). Ms. Rubin has worked throughout her career on mass tort, products liability and professiona
matters, including the defense of a major producer of silicone gel breast implants and other medical
defending asbestos litigation in New York State and Federal Courts, and assisting in the oversight of
State Blood Products (HIV) litigation as the Principal Court Attorney to the Honorable Karla Moskowit
Court of the State of New York, New York County. Ms. Rubin has lectured on appellate practice and p
the New York County Lawyers Association, and on diet drug litigation at the Mealy's Diet Drug Semin
Philadelphia (2004). She authored, with ethics expert Professor Stephen Gillers, the course materials
entitled *An Attorney's Ethical Obligations Relating to Disclosure of His/Her Health Issues To Clients, (
the Court, a 1999* continuing legal education seminar jointly sponsored by the Judges and Lawyers B
Alert and the Womens' Bar Association of New York.

Article:
Pittoni, Luke M., and Rubin, Denise A., **Does Early Breast Cancer Diagnosis Affect Cure, Surviv**
Legal Aspects of Cancer Litigation, Leader Publ. February 1995.

Practice Areas:
Appellate and complex litigation; Pharmaceutical and Products Liability, Medical and other Profession
Mass Torts; Environmental (Toxic) Torts and General Negligence.

Reported Cases:(Numerous reported cases, including the following)
Bhupsingh v. Long Island Cremation, 282 A.D.2d 491 (2d Dep't 2001)
Bongiorno v. Penske Automobile Center, 289 A.D.2d 250 (2d Dep't 2001)
Cives Steel Company v. Unit Builders, Inc., 262 A.D.2d 164 (1st Dep't 1999)
Cohn v. Haddad, 244 A.D.2d 519 (2d Dep't 1997)
Czeisler v. Mears, 259 A.D.2d 278 (1st Dep't 1999)
Farkas v. Saary, 191 A.D.2d 178 (1st Dep't 1993)
Greenfield v. Philles Records, Inc., 243 A.D.2d 353 (1st Dep't 1997)
Greenfield v. Philles Records, Inc., 248 A.D.2d 212 (1st Dep't 1998)
Gumo v. Canzoneri, 263 A.D.2d 456 (2d Dep't 1999)
Gumo v. Incorporated Village of Malverne, 260 A.D.2d 577 (2d Dep't 1999)
In re: Diet Drugs (Phentermine/Fenfluramine/Dexfenfluramine) Products, (numerous):
226 F.R.D. 498 (E.D. Pa. 2005)
369 F.3d 293 (3d Cir. (PA. 2004)
2004 WL 906284 (MDL-1203) (ED Pa., Civ A. 99-20593 Apr. 26, 2004)
2004 WL 286937 (MDL-1203) (ED Pa., Civ A. 99-20593, Feb. 12, 2004)
385 F.3d 386 (3d Cir. (Pa.) 2004
Larson v. Cabrini Medical Center, 175 Misc.2d 573 (Sup. Ct., NY Cty. 1998)
Nealy v. U.S. Healthcare HMO, 93 N.Y.2d 209 (1999)
Romano v. Marks, 231 A.D.2d 563 (2d Dep't 1996)
Sterling v. Interlake Industries, Inc., 154 F.R.D. 579 (E.D.N.Y. 1994)
Whelan by Whelan v. GTE Sylvania Products, Inc., 182 A.D.2d 446 (1st Dep't 1992)

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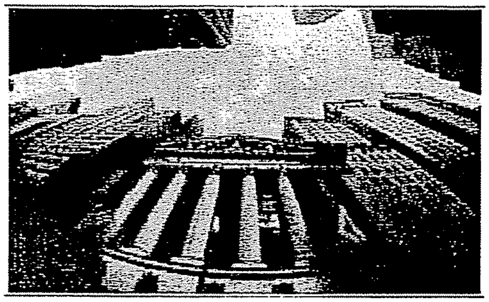

Napoli Bern Ripka, LLP (Personal Injury Attorneys of New York, New Jersey, Pennsyl\ throughout the United States) has a cumulative total of over 60 years of experience in personal injury actions on behalf of its clients. The firm's litigation practice is focused c medical malpractice, products liability, and negligence actions. The firm's verdict recor hundreds of millions of dollars, and two of our senior partners are members of the "inv Million Dollar Advocates Forum. Our New York personal injury attorneys have been inst the development of new law in the area of personal injury law and consumer rights.

We work on all of our cases with legal/medical professionals that are "in house," as \ in the fields of pathology, neurology, oncology, cardiology, toxicology, pharmacology, i reconstruction and surgery to name a few. All of this is done in conjunction with our pe attorneys in New York City to prepare our client's cases for litigation. Our "in house" st physician/attorney and a registered nurse that help our personal injury attorneys ensure that our clients' cases are examined from the | perspective.

Some of the local, national and multinational entities that we have obtained successful verdicts and settlements against include:

- Wyeth
- Bayer
- Pfizer
- Amtrak
- Enterprise Rent-A-Car
- Intrepid Sea, Air and Space
- Aqueduct Racetrack
- Museum
- American Airlines
- Federal Express Corporation
- Hertz Claim Management
- China Airlines
- The City of New York
- Chrysler Corporation
- New York Cruise Line
- Brooklyn Union Gas
- Getty Terminals Corp
- Nynex/Bell Atlantic
- Consolidated Edison
- New York City Transit Authority
- Toyota Corporation
- National Presto Industries
- Hunter Mountain Ski Resort
- New York City Housing Author
- New York City Health and Hos| Corporation.
- MABSTOA
- The United States
- Black & Decker
- Off Track Betting (OTB)
- West Side Medical Center

A primary reason for our success in litigation is our firm and New York personal injury attorney's reputation for a willingness to procee necessary. We have attorneys with substantial trial experience and we are trial counsel to many firms throughout the United States. Ou verdicts and settlements reach into the hundreds of millions of dollars.

In part because of the firm's achievements, we have currently been appointed Liaison Counsel to the Steering Committee for the New mass tort Fen-Phen litigation, the Rexulin Litigation, and we are on the PSC of the Federal MTBE litigation.

A substantial portion of our client referrals come to us from former and present clients. This is a testimonial to the quality of our New personal injury attorneys' legal representation afforded to each of our clients.

The contingent fee arrangement we have with the vast majority of our clients affords them access to the caliber of representation wh Ripka, LLP offers and which would normally be financially unavailable to them on a billable hour retainer arrangement.

Napoli Bern Ripka, LLP, of New York City handles many types of severe personal injury cases including medical malpractice, job site a defective products, lead poisoning, cases against municipalities, personal injury, wrongful death, brain damaged infants, automobile acc other complex liability matters.

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